

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 19, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Dennis Himmelberger (R)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: Rep. Sylvia Bookout-Reinicke (R)
Rep. Kathleen Galvin-Halcro (D)
Rep. Carol C. Juneau (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB592, HB594, HB596, HB597,
2/16/2001
Executive Action: None

HEARING ON HB596**Sponsor:** REP. ROD BITNEY, HD77, KALISPELL**Proponents:** Carl Heissman, Emerald Greens Golf Course, Great Falls
Mark Staples, Montana Tavern Assn.
Christy Blazer, Montana Beer & Wine Wholesalers Assn.**Opponents:** None**Opening Statement by Sponsor:**

REP. ROD BITNEY, HD77, KALISPELL, said privately owned golf courses should have the same privileges and benefits as public golf courses. He said public was defined as belonging to the state, municipality or university. He noted private meant privately-owned, but open to the public. He said the club in Kalispell has a seasonal operation from April 1-October 31. He said presently they have an off-premises beer and wine license like that of a convenience store and that the members must go outside to drink the beer or wine. He said the golf courses of Montana attract many visitors from around the world and it would be nice if they could sit down inside the club to drink their beverage in the event of bad weather. He noted they had worked closely with the Montana Tavern Assn. on this bill because they did not want to devalue the licenses held by the Tavern Assn.'s members. He said an amendment had been prepared which would make them comfortable with the bill. The amendment would say there could be no gaming, the license may not be leased, not have more than 75 seats, the applicant may not have held a license within 12 months, and must be in the city limits or within 1 mile of the city limits.

Proponents' Testimony:

Mr. Heissman said he had owned a tavern and had joined Emerald Greens Golf Course 5 years ago. He said Emerald Greens was an executive golf course and just wanted to be treated fairly, because they could not compete with a city golf course if they could not sell beer and wine. He said the current law creates an anti-business climate that does not allow his club to compete on an equal basis.

{Tape : 1; Side : A; Approx. Time Counter : 12.5}

Mr. Staples told the committee that when REP. BITNEY put the bill in, Mr. Staples was asked if he opposed the bill. "I said we would have the most to lose, but we are not afraid of competition," he said. "What I am afraid of," he continued, "is disadvantaged competition," he added. He told the committee it

was impossible to compete with someone who gets a freebie. He said he thought the golf course should resemble a golf course and have 18 holes, no gambling, leasing, be a year round club, or have no more than 75 seats. He stated that with an amendment to these effects he would support the bill, but without the amendment he would oppose it.

Ms. Blazer agreed with **Mr. Staples'** testimony.

{Tape : 1; Side : A; Approx. Time Counter : 22}

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAWSON asked **Mr. Staples** if cabaret licenses were available and how much they cost. **Mr. Staples** replied, "Yes, they are, and they cost \$5000." He added the cabaret licenses were established for fine dining restaurants and they required food to be served at tables and meet the food percentage requirement.

REP. HIMMELBERGER asked **Mr. Staples** what the certain percentage requirement was. **Mr. Staples** replied it was 65%, maybe 70%.

CHAIRMAN MCKENNEY asked **Mr. Heissman** if he had a chance to review the amendments and how they impacted him. **Mr. Heissman** said the 12 months, the one hour after dusk, and the gaming were no problem. He did take issue with the course requirements saying they had started with 9 holes and now had 18, so they would not have qualified for that restriction at first. He said he did have a problem with the length requirement which would eliminate some Par 3's even though they were 18 hole. He noted that he had tried to qualify for the cabaret license and couldn't obtain it because it requires 75% food sales.

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Closing by Sponsor:

REP. BITNEY said, "Sometimes we have all four season in Montana every day. Many of our golfers are senior citizens who want to be able to sit down indoors and enjoy their beverages." He said this would be a service for the citizens, not a major business, and the cost of the cabaret license was prohibitive and not even possible for some clubs because of the food requirement.

{Tape : 1; Side : B; Approx. Time Counter : 3.3}

HEARING ON HB594

Sponsor: REP. STEVE GALLUS, HD35, BUTTE

Proponents: Jerome Anderson, Les Schwab Tire Centers

Opponents: None

Opening Statement by Sponsor:

REP. STEVE GALLUS, HD35, BUTTE, said this is a bill that may not be necessary, and they would hear more about that in a minute.

Proponents' Testimony:

Mr. Anderson said he was an attorney who represented Les Schwab Tire Centers throughout the western part of Montana, Idaho, Washington, Oregon and California. This was a bill which was to address the question of priorities of liens on accession. He said it was a very technical issue. He continued that during the weekend they discovered a Montana Supreme Court decision that recognized the problem had been perceived and they do not need the legislation. He asked them to table it or incinerate it or do something with it, but they certainly do not need it. He apologized for occupying their time and asked to be excused.

CHAIRMAN MCKENNEY said certainly, and he thought he would put him down as an opponent.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. GALLUS said, just like last time, "I hope your verdict is swift."

{Tape : 1; Side : B; Approx. Time Counter : 5}

HEARING ON HB592

Sponsor: REP. MATT MCCANN, HD92, HARLEM

Proponents: Herb Vasseur, Blaine County

Opponents: Patrick Montalban, Northern Montana Gas & Oil Assn.
Del Abercrombie, Montana Petroleum Assn.

Opening Statement by Sponsor:

REP. MATT MCCANN, HD92, HARLEM, said this bill would require gas producers to itemize charges assessed to the owner of a natural gas royalty. He said these charges would accompany the check the owner receives. He presented a group of letters from royalty owners. **EXHIBIT(buh41a01)**

Proponents' Testimony:

Mr. Vasseur said when he receives checks he has no idea what has been deducted from them. He said he has pleaded in the past with the producers to show the charges.

Opponents' Testimony:

Mr. Montalban said no one had spoken to him about this bill and he did not know about it until Friday evening. He said there are no deductions on the royalty checks because it is illegal to charge. He said the formula for royalties out of every dollar is 87 ½ cents to the oil and gas company and 12 ½ cents to the royalty owner.

Mr, Abercrombie said there is a calculated well-head price for the payment of royalties. Expenses after the well-head are paid by the company and include gathering, transportation and processing costs.

Questions from Committee Members and Responses:

REP. LAIBLE asked **Mr. Montalban** about the contracts between producers and royalty owners. **Mr. Montalban** said they do not have contracts, they have leases. He said the royalty owners are paid at the well-head a 1/8 interest which is the historic payment for oil and gas royalties. He said sometimes if the property is closer to production areas, then a higher royalty may be negotiated up to 15%.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Closing by Mr. Vasseur0:

Mr. Vasseur said his royalties have increased with the price of gas. He said the wellhead price establishes the price where taxes are collected. He continued the only deduction on his statement was for MPR, the Montana Producers' Royalty. He said the gathering is not regulated and transportation is regulated. He said he would sit down with the industry and work on amendments and urge them to consider passing this bill.

HEARING ON HB597

Sponsor: REP. CHRISTINE KAUFMANN, HD53, HELENA

Proponents: Jim Carlson, Sanitarian, Missoula
Cherri Lodi, Cascade County Health Director
Joan Miles, Health Officer, Lewis & Clark County
Sheila Cozzie, Lewis & Clark County Commissioner
Gordon Morris, Montana Assn. of Counties
Linda Stoll, Montana Local Health Offices

Opponents: Brad Griffin, Montana Restaurant Assn.
Montana Tavern Assn.
Montana Chamber of Commerce
SEN. BOB KEENAN, SD38, Bigfork
Bill Stevens, Montana Food Distributors Assn.

Opening Statement by Sponsor:

REP. CHRISTINE KAUFMANN, HD53, HELENA, said the bill addressed food safety issues which affect public health. She said Montana requires the health office to do this by law, yet there are not enough funds to cover the cost of inspection. She said this statute would create fees which would enable the inspections. She noted food establishments now pay an annual fee of \$60 per year for inspections. Her bill would raise the fees for some she said. The bill would divide food establishments into four risk levels and sets the fees accordingly in a range from \$60-\$150. She said the \$60 fee now only covered about 28% of the cost and this bill would bring the fees up to cover 47% of the inspection cost.

Proponents' Testimony:

Mr. Carlson said he also represented seven other large counties in Montana who supported the bill. He said the risk reduction of disease, this bill would bring about, was important to consider. He noted that today 40% of all meals are eaten out of the home,

and half of the food dollars go to meals prepared out of the home. He said there were 39 million out of home meals eaten in Missoula each year. He remarked that the cost of a napkin was five times more than the cost per meal of passing this bill.

{Tape : 2; Side : A; Approx. Time Counter : 18.4}

Ms. Lodi said there had been no increase in inspection fees since 1989. She said the past years had shown a great change in highly-contagious diseases such as Hepatitis-B, Hantavirus and AIDs. She noted it was tough to find resources and this increase would be helpful.

Ms. Miles said the local governments are now subsidizing state mandates. She said she would welcome other options to increase their funding. She noted fees in other states were higher. She added that since this was a state mandate, it would be great if it was fully funded. She suggested some type of interim committee or a consensus council to study the situation.

Ms. Cozzie repeated that it has been 12 years since the last raise of this fee. She said her association had voted unanimously to request this fee be raised.

Mr. Morris agreed the bill needed to go on to the Senate but said it also needed more work on it, and perhaps some amendments.

Ms. Stoll said she thought the points had been well-made and she stood in full support of the bill.

Opponents' Testimony:

Mr. Griffin said he opposed the bill for many reasons. He said he was frustrated to be here today. He said this bill began last fall when MACO said the restaurant association should pay for 100% of the inspection costs. He said inspections are a matter of public safety like the police. The state has paid 2/3 in the past, he said, and the individual owners have picked up 1/3. He said he was not aware of any outbreaks of disease in Montana which would be a cause of alarm. He said his association supported food safety as much as anyone because one outbreak could bankrupt a restaurant, not to mention the damage it could cause to an affected person.

SEN. KEENAN said a 100-200% increase in fees was too much and this bill did not have support from the individual food establishment owners. He added that he, too, was frustrated that the bill was here today.

Mr. Stevens said they are proposing double fees for his members. He said they can compare fees with other states all they want, the fees would still be doubling on the owners of food establishments. He also said he saw no fiscal note on the bill and thought that would be important in making a decision.

Informational Witnesses:

Kathleen Martin, DPHHS, said she was available to answer questions. She also said she wanted to clarify that the food code task force was set up to deal with different issues than fees.

Bill Kennedy, Yellowstone County Commissioner, said the same issue comes up year after year. If the bill was not going to go forward, the legislature should look at a consensus council.

Questions from Committee Members and Responses:

REP. HIMMELBERGER asked **Mr. Martin** if he knew food businesses paid \$60 to Yellowstone County and \$60 to the state. **Mr. Martin** said he was not aware of that. **REP. HIMMELBERGER** asked what risk level his brewery would fall under. **Mr. Martin** answered \$60 probably, since it was not a high risk. **REP. HIMMELBERGER** asked him to confirm and get that information today.

REP. LAWSON asked **Mr. Griffin** if he knew about the consensus council. **Mr. Griffin** said he had just heard about it on Tuesday, had been in Billings since, and had not had time to discuss it.

REP. KEANE asked **Mr. Carlson** how many times the food establishments had to be inspected. **Mr. Carlson** said two times per year unless a modified program was approved such as newsletters and classes. He said low risk situations are lowered to once a year inspections. Problem situations might be inspected 4-5 times a year, he said.

REP. GALLIK asked **REP. KAUFMANN** if the public subsidized other licensure programs. **REP. KAUFMAN** said the spread of contagious disease is more of an emergency and it is appropriate the public pays part.

REP. PRICE asked **Ms. Miles** about the statistics from other states and if they could get a copy. **Ms. Miles** said every state is different depending on the size and type of food establishments, and she would try to get him a copy.

REP. PRICE asked **Mr. Carlson** if there were exceptions for fairs. He said there is an exception for non-profits which are operated

less than 15 days a year, They do not have to pay a fee, but they are inspected.

Closing by Sponsor:

REP. KAUFMANN said the fiscal note was not accurate, but by the floor action time there should be a corrected one. She estimated 90% of the food establishments would be at Risk Level #3. She said the definitions were based on the level of complexity of the inspections. She said this is a public health issue which needs to be dealt with. She wished she had a bill everybody agreed on. She also said she wished there was fairness between a kiosk and Cavanaugh's paying the same fee. She noted she would have supported an interim study and a consensus council.

ADJOURNMENT

Adjournment: 10:15 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh41aad)